

EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT FEES, AWARDS AND SUPPORT) (AMENDMENT)
(NO. 3) REGULATIONS 2021

2021 No. 1348

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes miscellaneous amendments, including a number of corrections, to the following legislation relating to finance for students in further and higher education:
- the Education (Fees and Awards) (England) Regulations 2007 (S.I. 2007/779) (“the Fees and Awards Regulations”);
 - the Education (Student Support) (European University Institute) Regulations 2010 (S.I. 2010/447) (“the European University Institute Regulations”);
 - the Education (Student Support) Regulations 2011 (S.I. 2011/1986) (“the Student Support Regulations”);
 - the Further Education Loans Regulations 2012 (S.I. 2012/1818) (“the Further Education Loans Regulations”);
 - the Education (Postgraduate Master’s Degree Loans) Regulations 2016 (S.I. 2016/606) (“the Master’s Regulations”);
 - the Higher Education (Fee Limit Condition) (England) Regulations 2017 (S.I. 2017/1189) (“the Fee Limit Condition Regulations”);
 - the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599) (“the Doctoral Regulations”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 Although this instrument is necessary to introduce further and higher education student finance changes for the 2022/23 academic year, it also makes a number of corrections to come into force when this instrument comes into force.
- Regulations 10, 43 and 59 correct Schedule 1, Part 2, paragraph 13(1)(b) of the Student Support Regulations and the Master’s Regulations and Schedule 1, Part 2, paragraph 14(1)(b) of the Doctoral Regulations by adding an omitted reference to ‘on the first day of the first academic year of the course’ so that students who fall within the long residence eligibility category in those Regulations must be ordinarily resident in England on the first day of the first academic year of the course. Regulation 39 makes a corresponding change to

Schedule 1, paragraph 13(1)(b) of the Further Education Loans Regulations by adding an omitted reference to ‘on the first day of a designated further education course’ so that students who fall into the long residence eligibility category must be ordinarily resident in the United Kingdom on the first day of a designated further education course.

- Regulation 13 adds cross-references in regulation 5(1)(e) of the Student Support Regulations to courses in paragraphs 9, 10 and 11 previously added to Schedule 2 to those Regulations. The cross-references were inadvertently omitted from regulation 5(1)(e) when the Schedule was updated. It is our policy intent that these courses should lead to an award granted by a body with degree awarding powers.
- Regulation 16 corrects regulation 2(1) of the Student Support Regulations so that in the definition of a person granted Calais leave, ‘since the person was granted such leave to remain’ replaces ‘since the person was first granted such leave’. Regulations 25, 32, 38, 47(a), 55 and 63(a) make corresponding corrections to Schedule 1, paragraph 4D(b) of the Fees and Awards Regulations, regulation 3(1) of the European University Institute Regulations, regulation 2(1)(b) of the Further Education Loans Regulations, regulation 2(1)(b) of the Master’s Regulations, regulation 2(bbb)(ii) of the Fee Limit Condition Regulations and regulation 2(1)(b) of the Doctoral Regulations.
- Regulation 17 corrects regulations 18(2), 39(2), 82(2)(a) and 86(2) of the Student Support Regulations so that references to ‘student undertaking an intensive course’ are replaced by a ‘compressed degree student’.
- Regulation 31 corrects Schedule 1, paragraph 2A(1)(c) of the European University Institute Regulations so that references to ‘first day of the first academic year of the course’ are replaced by ‘relevant date’.
- Regulations 47(b) and 63(b) correct regulation 2(1) of the Master’s Regulations and regulation 2(1) of the Doctoral Regulations so that in paragraph (b) of both regulations, the definition of a person granted Section 67 leave ‘since the person was granted such leave’ replaces ‘throughout the three-year period preceding the first day of the first academic year of the course’.

3.2 In light of these corrections, the Department is adopting the free issue procedure in relation to this instrument for anyone who purchased S.I. 2016/584, S.I. 2018/443, S.I. 2019/142, S.I. 2020/1203 and 2021/127. The Department confirms that it has complied with the requirement stated in paragraph 4.7.6 of Statutory Instrument Practice to consult the SI Registrar on the use of the free issue procedure in relation to this instrument.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument makes amendments to the legislation governing undergraduate and postgraduate student funding in England.
- 6.2 The Student Support Regulations provide for support for undergraduate students taking designated full-time and part-time undergraduate courses and also for certain postgraduate higher education courses. The support provided for under these Regulations includes fee support, loans and grants for living costs, grants for other costs such as travel, grants for dependants and disabled students' allowance.
- 6.3 The Master's Regulations provide for the making of loans to eligible students in connection with designated postgraduate master's degree courses beginning on or after 1st August 2016.
- 6.4 The Doctoral Regulations provide for the making of loans to eligible students in connection with designated postgraduate doctoral degree courses beginning on or after 1st August 2018.
- 6.5 The European University Institute Regulations set out the financial support available for students taking designated postgraduate courses at the European University Institute in Florence, Italy, in respect of an academic year beginning on or after 1st September 2010. These Regulations make provision for grants for living and other costs, a disabled student's allowance and a grant for dependants, for up to twenty eligible students.
- 6.6 The Further Education Loans Regulations provide for fee loans for students taking designated further education courses which begin on or after 1st August 2013.
- 6.7 The Fees and Awards Regulations provide that, in the circumstances described in the Regulations, it is lawful to discriminate between certain persons, meaning persons who do not have a specified connection with the UK can be charged higher fees than those who do. Those with the specified connection to the UK are referred to as having "home fee status".
- 6.8 The Fee Limit Condition Regulations prescribe the category of higher education provider and set out the qualifying persons and courses to which/whom maximum fee limits for undergraduate courses apply.

7. Policy background

What is being done and why?

Changes to living costs support for 2016 cohort full-time undergraduate students in 2022/23.

- 7.1 The maximum loan for living costs for new full-time undergraduate students and continuing full-time undergraduate students who started their courses on or after 1 August 2016, ('2016 cohort students'), will be increased by forecast inflation (2.3%)¹ in 2022/23. The loan for living costs is partially income assessed.
- 7.2 This instrument amends the Student Support Regulations so that the maximum loan for living costs for most 2016 cohort students living away from home and studying

¹ November 2020 Office for Budget Responsibility forecast for RPI-X (Retail Prices Index less mortgage interest charges) for the first quarter of calendar year 2023 which falls within the 2022/23 academic year.

outside London will be £9,706 in 2022/23; for students living away from home and studying in London, £12,667; for students living in the parental home, £8,171 and for students studying overseas as part of a UK course, £11,116.

- 7.3 Different rates of loan for living costs apply to full-time undergraduate students eligible for benefits. This instrument amends the Student Support Regulations so that the maximum loan for living costs for 2016 cohort students who are eligible for benefits and are living away from home and studying outside London will be £11,064 in 2022/23; for students living away from home and studying in London, £13,815; for students living in the parental home, £9,640 and for students studying overseas as part of a UK course, £12,374.
- 7.4 2016 cohort students aged 60 or over on the first day of the first academic year of their course qualify for a separate rate of loan for living costs. This instrument amends the Student Support Regulations so that the maximum loan for living costs for 2016 cohort students aged 60 or over on the first day of the first academic year of their course will be £4,106 in 2022/23.

Changes to living costs support for 2009 and 2012 cohort full-time undergraduate students in 2022/23.

- 7.5 The maximum loan for living costs for full-time undergraduate students who entered higher education on or after 1 September 2012 but before 1 August 2016, ('2012 cohort students'), will be increased by forecast inflation (2.3%) in 2022/23. The loan for living costs is partially income assessed.
- 7.6 This instrument amends the Student Support Regulations so that the maximum loan for living costs for 2012 cohort students living away from home and studying outside London will be £6,958 in 2022/23; for students living away from home and studying in London, £9,708; for students living in the parental home, £5,534 and for students studying overseas as part of a UK course, £8,267.
- 7.7 2012 cohort students on lower incomes qualify for an income assessed maintenance grant, or for 2012 cohort students who are eligible for benefits, an income assessed special support grant. This instrument amends the Student Support Regulations so that the maximum maintenance grant and special support grant for 2012 cohort students will be increased by forecast inflation (2.3%) to £4,009 in 2022/23.
- 7.8 The maximum loan for living costs for eligible full-time undergraduate students who entered higher education on or after 1 September 2009 but before 1 September 2012, ('2009 cohort students'), will be increased by forecast inflation (2.3%) in 2022/23.
- 7.9 This instrument amends the Student Support Regulations so that the maximum loan for living costs for 2009 cohort students living away from home and studying outside London will be £6,263 in 2022/23; for students living away from home and studying in London, £8,764; for students living in the parental home £4,856 and for students studying overseas as part of a UK course, £7,455.
- 7.10 2009 cohort students on lower incomes qualify for an income assessed maintenance grant, or for 2009 cohort students who are eligible for benefits, an income assessed special support grant. This instrument amends the Student Support Regulations so that the maximum maintenance grant and special support grant for 2009 cohort students will be increased by forecast inflation (2.3%) to £3,680 in 2022/23.

Changes to elements of the living costs support package for new and continuing full-time undergraduate students in 2022/23.

- 7.11 Full-time undergraduate students attending courses that are longer than 30 weeks and three days in length during the academic year qualify for an income assessed long courses loan for each week or part week above 30 weeks and 3 days. Students attending their courses for 45 weeks or more in the academic year qualify for the same amount of long courses loan as students attending for 52 weeks.
- 7.12 This instrument amends the Student Support Regulations to increase the maximum long courses loan by forecast inflation (2.3%) for new and continuing full-time undergraduate students in 2022/23. For students living away from home and studying outside London, the maximum long courses loan will be £104 a week; for students living away from home and studying in London, £134 a week; for students living in the parental home £69 a week and for students studying overseas as part of a UK course, £144 a week.
- 7.13 Full-time undergraduate students undertaking a work placement year of a sandwich course do not qualify for the full living costs support package unless they are undertaking an unpaid placement in the public sector, as defined in the Student Support Regulations (see regulation 38(7) of those Regulations). Instead, most students undertaking work placement years qualify for a reduced rate, non-income assessed loan for living costs.
- 7.14 This instrument amends the Student Support Regulations to increase the maximum reduced rate loan for living costs for full-time undergraduate students undertaking a work placement year by forecast inflation (2.3%) in 2022/23. For students living away from home and studying outside London, the maximum reduced rate of loan for living costs will be £2,940, for students living away from home and studying in London, £4,128 and for students living in the parental home, £2,205. Students studying overseas as part of a UK course, qualify for the reduced rate of loan that applies to students living away from home and studying outside London.

Changes to grants for full-time undergraduate students with dependants in 2022/23.

- 7.15 This instrument also amends the Student Support Regulations to increase maximum dependants' grants for full-time undergraduate students by forecast inflation (2.3%) in 2022/23. The maximum adult dependants' grant will be £3,263 and the maximum parents' learning allowance, £1,863 in 2022/23. The amount of childcare grant payable in 2022/23 will be based on 85% of actual childcare costs, subject to maximum grants of £183.75 a week for one child only or £315.03 a week for two or more children.

Changes to allowances for full-time and part-time undergraduate students and postgraduate students with disabilities in 2022/23.

- 7.16 This instrument amends the Student Support Regulations to increase the maximum disabled students' allowance for full-time and part-time undergraduate and postgraduate students by forecast inflation (2.3%) in 2022/23. The maximum disabled students' allowance will be £25,575 in 2022/23.

Changes to living costs support for part-time undergraduate students in 2022/23.

- 7.17 The maximum loan for living costs for new part-time undergraduate students and continuing part-time undergraduate students who started their level 6 courses (honours

degree and equivalent courses) will be increased by forecast inflation (2.3%) in 2022/23. The loan for living costs is partially income assessed.

- 7.18 This instrument amends the Student Support Regulations so that the maximum loan for living costs for part-time students living away from home and studying outside London will be £9,706 in 2022/23; for students living away from home and studying in London, £12,667; for students living in the parental home, £8,171 and for students studying overseas as part of a UK course, £11,116.

Changes to loans for students starting postgraduate master's degrees in 2022/23.

- 7.19 The maximum loan for students starting postgraduate master's degrees on or after 1 August 2022 will be increased by forecast inflation (2.3%) in 2022/23. This instrument amends the Master's Regulations to increase the maximum postgraduate master's degree loan to £11,836.

Changes to loans for students starting postgraduate doctoral degrees in 2022/23.

- 7.20 The maximum loan for students starting postgraduate doctoral degrees on or after 1 August 2022 will be increased by forecast inflation (2.3%) in 2022/23. This instrument amends the Doctoral Regulations to increase the maximum postgraduate doctoral degree loan to £27,892. It also increases the maximum postgraduate doctoral degree loan that can be paid for any one academic year to £11,836.

Introducing a new Eligibility Category in Regulations for Afghan Locally Employed Staff.

- 7.21 A new eligibility provision is being introduced in all of the Regulations mentioned in paragraph 2.1 above that apply to student finance for higher and further education so that current and former employees of the UK Government and their family members that have been granted leave to enter or indefinite leave to enter or remain from Afghanistan to the UK under the Home Office's Relocation and Assistance Scheme, may qualify for student support in England, home fee status and are "qualifying persons" for the purposes of tuition fee limits. Students who are in this category will not need to satisfy a three-year ordinary residence requirement. This category of student will need, however, to have been ordinarily resident in the UK and Islands (the Crown Dependencies) since the grant of such leave.
- 7.22 This change will apply to new students starting full-time or part-time undergraduate and postgraduate courses in the 2022/23 academic year.

Changes to home fee status and tuition fee support for family members of settled persons living in the UK.

- 7.23 From academic year 2021/22, the Student Support Regulations were amended so that family members of UK nationals could continue to access student support as they could when the UK was a member of the EU. However, family members of other settled persons are not currently entitled to tuition fee loans.
- 7.24 Now the UK has left the EU it is considered appropriate for family members of other settled persons to be able to access student finance on the same basis as family member of UK nationals.
- 7.25 This instrument amends the Student Support Regulations so that family members of all settled persons in the UK who are starting full-time and part-time undergraduate courses in 2022/23 qualify for tuition fee loans. This category of person must be

ordinarily resident in the UK and Islands for three years prior to the start of their course in order to qualify for tuition fee loans.

- 7.26 This instrument makes corresponding changes to the European University Institute Regulations, the Master's Regulations, the Doctoral Regulations and the Further Education Loans Regulations in relation to student support.
- 7.27 This instrument makes changes to the Fees and Awards Regulations so that family members of all settled persons in the UK who are starting courses in 2022/23 will qualify for home fee status. It also makes changes to the Fee Limit Condition Regulations so that persons in this category are 'qualifying persons' for the purposes of tuition fee limits.

Changes to tuition fee support for settled persons and their family members living in the specified British overseas territories.

- 7.28 UK nationals and their family members domiciled in specified British overseas territories (BOTs) are currently entitled to home fee status on the basis of three years' ordinary residence in the UK, Islands and the specified BOTs (and have been since 2007).
- 7.29 This instrument amends the Student Support Regulations so that persons who have settled status on arrival in the UK who come to the UK from specified BOTs and who are starting full-time and part-time undergraduate courses in 2022/23 will qualify for the respective support packages (students qualify for tuition fee loans only for undergraduate courses in the Student Support Regulations, they do not qualify for grants and loans for living and other costs). To qualify for support, persons resident in the BOTs will need to satisfy the three-year ordinary residence requirement in the UK, the Islands or specified BOTs.
- 7.30 Equivalent provision is also made for those covered by the Withdrawal Agreements (the EU Withdrawal Agreement, the EEA-EFTA Separation Agreement and the Swiss Citizens' Rights Agreement) who have spent part of their residence period in either the BOTs or EU overseas territories. In addition, the family members of all persons settled when in the UK will now have access to home fee status, subject to the same residence requirement. Previously, only family members of United Kingdom nationals qualified for home fee status.
- 7.31 UK nationals and their family members resident in Gibraltar, and EU nationals and their family members who have a right to reside there arising from the EU Withdrawal Agreement, are eligible for home fee status and are 'qualifying persons' for the purposes of tuition fee limits on the basis of three years' residence in the UK, EEA, Switzerland and the overseas territories immediately before the start of the course. They are also eligible for undergraduate tuition fee loans, postgraduate loans and Advanced Learner Loans, if starting courses before 1 January 2028, on the basis of three years' residence in the UK, Gibraltar, EEA and Switzerland immediately before the start of the course.
- 7.32 This instrument also adds a course start date time restriction of 31 December 2027 for residents under this category to the Fees and Awards Regulations for the purpose of awarding home fee status, and to the Fee Limit Condition Regulations to identify qualifying persons eligible for tuition fee limits, bringing it into line with the time limit for student support.

Changes to the EU Settlement Scheme Grace Period

- 7.33 EU, other EEA and Swiss Nationals applying for support for courses starting in academic year 2021/22 will generally not be entitled to fee loans unless they are in scope of the Withdrawal Agreements² and applied for settled or pre-settled status under the EU Settlement Scheme (EUSS) on or before 30 June 2021. In accordance with the Withdrawal Agreements, the Student Support Regulations provide for students in scope of citizens' rights to be treated as eligible during the Grace Period (the period from the end of the transition period until 30 June 2021), even if no application to the EUSS had yet been made.
- 7.34 This instrument makes changes to the Student Support Regulations for EU, other EEA and Swiss nationals starting undergraduate HE courses in 2022/23 by removing this provision as it is redundant now the Grace Period has ended. Those who have made an application for student support on or before 30 June 2021 and who have been granted settled or pre-settled status, or who are awaiting the outcome of their application or the outcome of an appeal, will be eligible under the terms of the Withdrawal Agreements. Those who did not make an application by 30 June 2021, or who have had an application declined, will not generally be eligible for support.
- 7.35 This instrument makes corresponding changes to the Master's Regulations, the Doctoral Regulations, the European University Institute Regulations, the Further Education Loans Regulations and to the Fees and Awards Regulations.

Eligibility for Courses that are Dual Degrees.

- 7.36 The Student Support Regulations generally designate courses leading to a single qualification for student support. This aligns with the general policy intent that students should receive fee loan and loan for living costs support for only one qualification at the same level.
- 7.37 There are some exceptions to this rule, for example students undertaking architecture courses are awarded two qualifications and students undertaking courses in medicine, dentistry and veterinary surgery often take an additional intercalated degree part way through their course. In addition, students of landscape architecture, landscape design, landscape management, town planning and town and country planning complete professional diplomas/qualifications in addition to their first degrees where the qualifications are no higher than a first degree (either part way through the courses, or at the end).
- 7.38 For other subjects, there is nothing currently to prevent a provider incorporating two qualifications of an equivalent level into a course and awarding both qualifications at the end of an extended degree programme. This does not meet the general policy intent to fund a single qualification in the UK at the same level (e.g. an Honours Degree).
- 7.39 To prevent this happening in future, this instrument amends the Student Support Regulations so that a course offered by a provider in the UK leading to two first degree qualifications is not designated for student support if it does not fall within the categories set out at 7.37 above.

² The EU withdrawal agreement, the EEA-EFTA separation agreement and the Swiss citizens' rights agreement.

- 7.40 This change will apply to new students starting full-time or part-time courses in the 2022/23 academic year.

Clarification of funding for Courses of Initial Teacher Training in Regulations.

- 7.41 A course for the initial training of teachers ('ITT course') is listed in Schedule 2 to the Student Support Regulations as one of the courses that are designated for student support. However, the current definition does not make clear which ITT courses are designated for support.
- 7.42 This instrument amends the Student Support Regulations so that the following ITT courses are designated for support and subject to ELQ and previous study exemptions as appropriate:
- 7.42.1 ITT courses leading to the recommendation of Qualified Teacher Status (QTS), or ITT courses undertaken within the Devolved Administrations and accredited as ITT courses by the relevant bodies (the General Teaching Council for Scotland for courses undertaken in Scotland, the Education Workforce Council for courses undertaken in Wales and the General Teaching Council for Northern Ireland for courses undertaken in Northern Ireland).
- 7.42.2 ITE courses for the training of FE teachers that have content consistent with the Diploma in Education and Training (DET), a Professional Graduate Certificate in Education or a Postgraduate Certificate in Education. These courses may be at level 5, 6 or 7.
- 7.43 Students undertaking a full-time ITT course of up to two years in length (or a part-time course of up to four years in length) are exempt from rules which prohibit tuition fee and living cost loan support for students undertaking a second course that is equivalent or lower in level to a qualification they already hold (ELQ). Full-time students studying on an ITT course of up to two years in length are also exempt from previous study rules which for other courses may prevent a student qualifying for fee loans for some or all of the years of their course depending on years of previous higher education study. These exemptions only apply where the student is not already a 'qualified teacher,' as defined in the Student Support Regulations.
- 7.44 The Student Support Regulations currently exclude those achieving Qualified Teacher Learning and Skills (QTLS) status to teach in further education from the definition of a 'qualified teacher' to allow students with QTLS to take a further ITT course to train as a school teacher. However, exemptions to ELQ and previous study rules also currently allow students who have achieved QTLS to apply for a fee loan, and where applicable, a loan for living costs for a further ITT FE course. This is not the policy intention.
- 7.45 This instrument amends the Student Support Regulations so that students already holding QTLS will not qualify for tuition fee loans and, where applicable, loans for living costs for an ITT course in the further education sector. Students with QTLS will continue to qualify for support for an ITT course that leads to QTS in the schools sector. This instrument makes corresponding changes to the Fee Limit Condition Regulations so that students already holding QTLS who are undertaking a further ITT FE course will not be qualifying persons for whom maximum fee limits will apply.
- 7.46 These changes will apply to new students starting full-time and part-time ITT courses in the 2022/23 academic year.

Clarification that students receiving apprenticeship funding are not eligible for student finance.

- 7.47 Students taking higher and degree apprenticeships have the cost of their tuition fees covered by the Government through the apprenticeship levy and also receive a salary. The policy intent is that these students should not be able to access student support. This policy is reflected in the Education and Skills Funding Agency funding rules and the Student Loans Company's (SLC) operating guidance.
- 7.48 This instrument amends the Student Support Regulations to make clear that students who are undertaking an apprenticeship are not eligible students for student support. This instrument also makes corresponding changes to the Master's Regulations and Doctoral Regulations. The change ensures that the regulations fully reflect policy intent and current SLC practice.
- 7.49 This change will apply from the date this instrument comes into force.

Clarification that students qualify for support for academic years for which a written Notification of Entitlement has been received following an Equivalent or Lower Qualification error.

- 7.50 The Student Support Regulations were amended for the 2015/16 academic year to allow an award to be honoured if an error made wholly by the Student Loans Company (SLC) resulted in an award to students who would not otherwise have qualified due to previous study or equivalent and lower qualification rules.
- 7.51 If the Secretary of State identifies an error before the start of the course, support can be left in place for that academic year, and if identified after the start of the course, support can be left in place for the academic year in which the error was identified and for any previous years of that course where the student has received a written notification of that award. However, the current drafting in the Student Support Regulations has been interpreted as allowing support for academic years in which no corresponding written notification of entitlement letter has been issued by the SLC to the student.
- 7.52 This instrument amends the Student Support Regulations from the date this instrument comes into force to make it clear that, where SLC are wholly responsible for an error, students qualify for fee loans and loans for living costs for the academic year in which the error was discovered and any previous years of the course where the student had received support in error and where a corresponding written notification of entitlement was received.

Entitlement to living costs support for students undertaking accelerated degrees by distance learning.

- 7.53 Students undertaking full-time distance learning courses qualify for fees loans and, where applicable, disabled students' allowance for their courses. However, they do not qualify for loans for living costs or where applicable, grants for adult or child dependants or travel grants, unless they are undertaking a course by distance learning because they are unable to attend that course due to a disability. The general rule is that students must be attending full-time courses in order to qualify for loans for living costs, grants for adult or child dependants or travel grants.
- 7.54 An exception applies to intensive courses in the Student Support Regulations – compressed degree courses starting before 1 August 2019 and accelerated degree courses – which allow students undertaking these courses by distance learning to

qualify for loans for living costs and, where applicable, dependants grants and travel grants.

- 7.55 This instrument amends the Student Support Regulations from the date this instrument comes into force so that only students undertaking intensive courses that are compressed degree courses by distance learning qualify for loans for living costs, dependants grants and travel grants. Students undertaking accelerated degree courses must be attending their courses in order to qualify for loans for living costs, dependants grants and travel grants (unless they are undertaking a course by distance learning because they are unable to attend a course due to their disability).
- 7.56 This change ensures the Regulations fully align with current practice and policy intent to exclude students undertaking accelerated courses by distance learning from qualifying for loans for living costs or where applicable, dependants' grants or travel grants (unless the exemption for disabled students applies).

Students eligible for benefits who qualify for the higher rates of loans for living costs.

- 7.57 Most full-time undergraduate students in higher education do not qualify for DWP benefits as the primary source of financial help for students is provided through the student support system. As such, students on full-time higher education courses cannot normally satisfy the entitlement conditions for benefits. Exceptions are only made where students have additional needs that are not met through the student support system, for example they are responsible for a child or are disabled with limited capacity for work and qualify for benefits.
- 7.58 Students eligible for benefits who started their courses before 1 August 2016 qualify for a Special Support Grant and a higher overall grant and loan support package than students not eligible for benefits. Students eligible for benefits who started their courses on or after 1 August 2016 ('2016 cohort students') do not qualify for Special Support Grant but qualify for higher rates of loans for living costs than 2016 cohort students not eligible for benefits. Special Support Grants and part of the loan for living costs ('the special support element') are disregarded by DWP as student income for maintenance when calculating a student's benefits.
- 7.59 The policy intent that students eligible for benefits qualify for higher rates of living costs support than other students remains unchanged. However, to reflect the growing number of students eligible for benefits who are now receiving Universal Credit, cross references to Universal Credit legislation are being added to the Student Support Regulations.
- 7.60 This instrument amends the Student Support Regulations to add cross-references to the Universal Credit Regulations 2013. These additional cross-references cover exceptions to the general rule that persons in education do not qualify for Universal Credit.
- 7.61 This change will apply to students starting or continuing full-time courses in 2022/23.

Removal of 2008 cohort students from the Student Support Regulations

- 7.62 The Student Support Regulations define current system students who started full-time courses on or after 1st September 2008 and before 1 September 2009 who had not undertaken any previous course before 1 September 2008 as '2008 cohort students'. This group of students qualifies for full maintenance grants or special support grants

at household incomes of £25,000 or less and partial grants up to household incomes of around £61,000 in addition to partially means-tested loans for living costs.

7.63 Data from the Student Loans Company indicates that there are no remaining 2008 cohort students in receipt of student support in the 2020/21 academic year.

7.64 This instruction amends the Student Support Regulations to remove all references to 2008 cohort students and the grants and loans they are entitled to. This change will apply in respect of the 2022/23 academic year starting on 1 August 2022.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it removes redundant provisions relating the EU Settlement Scheme Grace Period for the 2022/23 Academic Year as set out at paragraphs 7.33 – 7.35 above.

9. Consolidation

9.1 The Department is currently considering the feasibility of consolidating the relevant legislation for the academic year starting in August 2023.

10. Consultation outcome

10.1 There is no statutory requirement to consult on these amendment regulations. However, as part of a quality review process in Summer and Autumn 2021, a draft of this instrument was sent to the Student Loans Company for their review and comment.

11. Guidance

11.1 The Minister for Higher and Further Education, Michelle Donelan, announced student finance arrangements for the 2022/23 academic year in a Written Ministerial Statement to Parliament on 21 October 2021. The Statement and a detailed summary of changes to grants and loans can be accessed at:

<https://questions-statements.parliament.uk/written-statements/detail/2021-10-21/HCWS339>

11.2 Information setting out the changes made by this instrument will be made available to universities, colleges and other higher education stakeholders on Student Finance England's (SFE) practitioners' website³ by Spring 2022. Further information on changes to student for 2022/23 will be published for students on .GOV.UK and SFE websites before 1 August 2022.

11.3 Guidance materials are being produced by SFE for students intending to apply for financial support for the 2022/23 academic year.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is minimal.

³ <https://www.practitioners.slc.co.uk/policy/>

12.3 An Impact Assessment has not been prepared for this instrument because there is no significant impact on business and this SI relates to the maintenance of existing regulatory standards. An Equality Analysis (EA)⁴ covering changes to student support for 2022/23 is being published on the .GOV.UK website in December 2021 after these regulations have been laid.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 We will also be monitoring the number of students who receive fee loans and grants and loans for living costs. This information is published in the Student Loans Company's Statistical First Releases.

15. Contact

15.1 Mark Williams at the Department for Education telephone: 07391 018340 or email: mark.williams@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Williams, Deputy Director Student Funding Policy, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Michelle Donelan, Minister of State for Higher and Further Education at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

⁴ A hard copy of this EA is available from Linda Brennan at the Department for Education: Tel: 07391 018296 Email: Linda.Brennan@education.gov.uk